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Open meetings

Noise control

Changes in motor vehicle law

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Contents

This month's cover features a recordation for posterity—part of the Municipal Administration class graduates at the Institute. All photos by Carson Graves.

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71

Motor Vehicle Law Changes

BY BEN F. LOEB, JR.

Approximately 200 bills concerning motor vehicles or traffic safety were introduced during the 1971 Session of the North Carolina General Assembly. Over 70 of these were enacted into law. The more significant of the new acts are outlined below. A new Chapter 18A ("Alcoholic Beverage Control Law") was adopted and its provisions that relate to transportation are also discussed. A table appears at the end of the article showing each G.S. Ch. 20 section that was added, amended, or repealed in 1971, and the chapter number that made the change. This table reflects all statutory changes, whether or not they appear in the text.

RULES OF THE ROAD

G.S. 20–141 (b) (5) was amended by Ch. 79 (H 141) to increase the maximum allowable speed on North Carolina highways from 65 to 70 miles per hour (MPH). The 70 MPH limit is not effective on any road until the State Highway Commission conducts an engineering and traffic investigation and posts signs giving notice of the new limit. Except as otherwise posted, the maximum limit remains 55 MPH on all highways in this state. Ch. 79 also amended G.S. 20–141 (b1) (2) to provide for a minimum speed limit of 45 MPH in any zone with a maximum limit of 60 MPH or greater. However, minimum limits are probably also not effective until appropriate signs are posted.

Ch. 5 (H 23) amended G.S. 20–145 by adding "rescue squad emergency service vehicles" to a list of vehicles that are not required to observe the ordinary speed limits when traveling on official business or in an emergency. Previously this section applied to police, fire department, and Utilities Commission vehicles as well as to public and private ambulances. G.S. 20–156 (b) was modified by Ch. 78 (H 25) and Ch. 106 (H 475) to exempt rescue squad vehicles from the customary right-of-way rules when operated upon official business, and provided that the drivers give warning signals by *appropriate light* and by bell, siren, or exhaust whistle audible under normal conditions from a distance of not less than 1,000 feet. Police and fire department vehicles and ambulances were already exempt from the right-of-way rules.

Ch. 366 (H 24) amended G.S. 20–157 (a) to require motorists to pull over to the right upon the approach of an ambulance or rescue squad vehicle giving signal by appropriate light and by audible bell, siren, or exhaust whistle. Before this amendment, G.S. 20–157 applied only to police and fire department vehicles. It should be noted that this section, as amended, requires the signal to be given by light as well as by bell, siren, or exhaust whistle, while the old act required only an audible signal. A new subsection (e) was also added to G.S. 20–157 by Ch. 366. The new provision makes it unlawful for a driver to park within 100 feet of where a police, fire, or rescue squad vehicle, or ambulance has stopped at the scene of an accident.

G.S. 20–161, pertaining to parking, was completely rewritten and somewhat simplified by Ch. 294 (S 57).

The amended act makes it unlawful to park or leave standing any vehicle upon the paved or main-traveled portion of any highway or bridge, unless the vehicle is so disabled that it is impossible to avoid stopping and temporarily leaving it on the highway or bridge. Before this amendment, a vehicle could be parked on the pavement when it was not practicable to park it completely off the paved or main-traveled portion of the highway. Under the new act, parking on the shoulder is prohibited also unless the vehicle can be clearly seen by approaching drivers from a distance of 200 feet in both directions. No mention is made of parking on the pavement inside municipalities, but this is probably still allowed.

Subsection (c) of revised G.S. 20–161 requires the operator of any truck, trailer, or semitrailer that is disabled upon the highway to display warning signals not less than 200 feet to the front and to the rear of the vehicle. During daylight hours this warning signal must consist of red flags; after dark it may be either red flares or reflectors of a type approved by the Commissioner of Motor Vehicles. Under the provisions of the old act, reflectors were not authorized; flares or lanterns were mandatory. It is doubtful that any reflector will be as effective as a flare or lantern.

Ch. 294 also revised the statutes dealing with the disposition of illegally parked vehicles, and in so doing incorporated the substance of G.S. 20–219.1 into G.S. 20–161. As amended, G.S. 20–161(d) provides that any investigating law enforcement officer may act as an agent of the vehicle owner for the purpose of removing an illegally parked vehicle to the shoulder of the road. G.S. 20–161(e) directs the removal of any vehicle parked or left standing upon a right of way for 48 hours or more, and law enforcement officers are expressly authorized to arrange for the transportation and storage of the vehicle. This act is not clear, however, about who is responsible for paying the towing and storage charges.

Several significant changes were made in the provisions of G.S. 20–166 and G.S. 20–166.1 concerning the duties of a motorist who is involved in an accident or collision. Ch. 763 (H 111) amended G.S. 20–166.1(a) and (b) to require accidents to be reported orally to a law enforcement officer and in writing to the Department of Motor Vehicles when total damage is $200 or more. Before this amendment, these reports were required if the damages to both vehicles totaled $100. Ch. 55 (S 70) further amended G.S. 20–166.1 to extend from one to five days the period within which the motorist has to submit his written report to the Department.

Ch. 958 (S 227) rewrote G.S. 20–166(b) and 20–166.1(c) to change the notice and report requirements when an unattended vehicle or other property is damaged and the owner is not present or readily ascertainable. Before the amendment, G.S. 20–166(b) provided that if the owner of the damaged property was not known, then the driver should furnish the required information to the nearest available peace officer. The amended act permits the report to be made to the peace officer, but also allows the driver to place a note containing the required information in a conspicuous place on the damaged vehicle. Or, if the damaged property is a guard rail, utility pole, or other fixed object owned by the State Highway Commission, a public utility, or other public service corporation, then the driver may furnish the information to the State Department of Motor Vehicles by certified mail.

The amended G.S. 20–166.1(c) requires the driver of any motor vehicle that collides with another vehicle parked on any highway to notify the owner of the parked vehicle within 48 hours. This report must include the driver's name, address, license number, registration number, etc., and may be made orally or by certified mail. A copy of any written report must be sent to the Department of Motor Vehicles. The second paragraph of old G.S. 20–166.1(c), requiring accident forms to be completed and filed with the Motor Vehicles Department, was deleted.

Two bills were enacted making substantial changes in the laws relating to school buses. Ch. 245 (H 499) amended G.S. 20–217 to require motorists to stop for school buses only when "such bus is stopped and is displaying its mechanical stop signal." Before this amendment, motorists were required to come to a full stop whenever the mechanical stop signal was displayed, even if the bus was in motion at the time. Ch. 293 (H 673) amended G.S. 20–218 to provide for a $50 fine or thirty days' imprisonment for any person operating a school bus occupied by children who has not acquired the proper school bus driver's certificate from the Department of Motor Vehicles.

Probably the most important change in Chapter 20 was the revision of the laws related to driving under the influence. As rewritten by Ch. 619 (H 283), G.S. 20–138 makes it unlawful for any person who is under the influence of intoxicating liquor to drive or operate any vehicle upon a highway or any other "public vehicular area" within the state. ("Public vehicular area" is defined by G.S. 20–16.2(g) and includes school grounds, service stations, parking lots, etc.) G.S. 20–139(a) prohibits driving by any person who is a habitual user of any narcotic drug, even when not under the influence of that drug; and subsection (b) prohibits driving by any person who is under the influence of a narcotic drug or any other drug to such a degree that his physical or mental faculties are appreciably impaired. Before the enactment of Ch. 619, it was not unlawful to drive under the influence of a drug as long as it was not a narcotic drug.

Changes were also made by Ch. 619 in those sections of the Driver's License Act that pertain to

driving under the influence. G.S. 20–16.2 ("Mandatory Revocation of License in Event of Refusal to Submit to a Chemical Test") was amended so as to apply to any person driving or operating a motor vehicle on any highway or public vehicular area. A provision was added to subsection (d) of the same section requiring hearing officers to subpoena the arresting officer and other witnesses to appear and give testimony at the hearing if the licensee requests it. Another amendment to subsection (d) changed one of the issues to be considered from "whether the licensee was under the influence" to "whether the arresting officer had reasonable grounds to believe the licensee was under the influence." Ch. 619 further amended the Driver's License Act by adding "driving under the influence of an impairing drug" to a list of offenses requiring a revocation of the driver's license [G.S. 20–17(2)]. Revised G.S. 20–19 defines "under the influence of an impairing drug" to mean under the influence of any narcotic drug or under the influence of any other drug to such a degree that a person's physical or mental faculties are appreciably impaired. All revisions to the driving-under-the-influence statutes are effective October 1, 1971, and actions taken or offenses committed before that date are governed by the old law.

A new G.S. 20–162.3 was added by Ch. 1220 (S 931) to provide that no motor vehicle may be left for more than forty-eight hours on the premises of a gasoline service station without the consent of the owner or operator of the station. In the event of a violation, the station owner or operator may give notice of the violation by certified mail to the registered owner of the vehicle. After ten days from the return of the receipt showing that notice was received, the vehicle may be removed and stored—in which event the registered owner becomes liable for the reasonable removal and storage charges. Or instead of having the vehicle removed, the station owner or operator may charge for storage, assert a lien, and dispose of the vehicle under the terms of G.S. Ch. 44A ("Statutory Liens and Charges").

DRIVER'S LICENSE LAW

Over a dozen bills were enacted making changes in North Carolina's complex driver's license law. One of the new acts, Ch. 158 (H 301), amended G.S. 20–7(1) to make temporary learner's permits valid for six months rather than for 30 days. Two of the changes concerned "Provisional Licensees"—those who are under 18 years of age. Ch. 120 (H. 295) added a paragraph to G.S. 20–13(b)(3) to allow restoration of a provisional's license to drive after six months of a one-year suspension have expired. The remaining six months may be a probationary period during which the licensee is subject to such terms and conditions as the Department of Motor Vehicles sees fit to impose. The second change affecting provisional licensees was in an amendment to G.S. 20–13.1 (Ch. 437—H 874). This act changed from $100 to $300 the amount of property damage required to support a suspension of a privilege to drive.

Several of the acts modified statutes related to the suspension or revocation of licenses other than provisional licenses. Ch. 1198 (S. 735) amended subsections (c) and (d) of G.S. 20–16 ("Authority of Department to Suspend Licenses") to permit the Department, in its discretion and after a hearing, to substitute a one-year probation period for any suspension given pursuant to G.S. 20–16(a)(1) through G.S. 20–16(a)(10). Another amendment to G.S. 20–16 modified subsection (a)(10) to change the requirement necessary to support a license suspension for speeding from "convicted of operating a motor vehicle at a speed in excess of 75 MPH" to "a speed in excess of 75 MPH where the maximum speed is less than 70 MPH" or in excess of "80 MPH where the maximum speed is 70 MPH."

A third amendment to G.S. 20–16 provides that any licensee who has accumulated as many as four points within a three-year period immediately after reinstatement of his license may attend a driver improvement clinic; when he has successfully completed it, three points will be deducted from his conviction record (Ch. 793—H 528). Before this amendment, subsection (c) of this section required the licensee to acquire at least seven points before being eligible to attend an improvement clinic and have points deducted.

Other acts concerning suspensions or revocations include Ch. 15 (S 68), which added a new G.S. 20–36 to provide that convictions older than ten years may not be considered in determining whether to suspend or revoke a driving privilege; and Ch. 486 (S 115), which amended G.S. 20–26(a) and G.S. 20–23 to allow only certain out-of-state offenses to be considered in determining whether a license may be revoked or suspended. These out-of-state offenses are: exceeding a speed limit of 55 MPH or more by more than 15 MPH; driving with a suspended or revoked license; reckless driving; engaging in prearranged speed competition; engaging willfully in speed competition; hit-and-run driving resulting in damage to property; unlawfully passing a stopped school bus; illegal transportation of intoxicating liquors; and those offenses already included in G.S. 20–17 ("Mandatory Revocation of License").

Ch. 163 (H 223) amended G.S. 20–28.1, which requires additional periods of revocation for any licensee convicted of a moving violation committed while his license was suspended or revoked. The amendment authorizes the Department to reduce or eliminate any additional revocation period upon the written recommendation of the judge and solicitor of the court where the conviction was obtained. Additional discretionary authority with respect to revocations was also given under the provisions of Ch. 1133

(S 621). This act, which amends G.S. 20–179, allows the court to grant limited driving privileges to individuals who have been convicted of driving under the influence of intoxicating liquor for the first time. A similar act passed by the 1969 General Assembly had expired under its own terms in 1971.

G.S. 20–17.1, which authorizes the revocation of the license of a mental incompetent, was amended by adding a provision to subsection (c) to eliminate reports concerning any person who voluntarily enters an institution for the treatment of a mental illness, alcoholism, or the habitual use of narcotic drugs (Ch. 208— S 214, Ch. 401—S 485, Ch. 767—H 828). Ch. 546 (H 694) amended G.S. 20–29.1 ("Commissioner may require re-examination") to authorize the Commission of Motor Vehicles to cancel the license of any person until he satisfactorily complies with a driver's license re-examination order. Ch. 152 (S 242) made a minor change in the driver's license law by amending G.S. 20–9(g)(4)(a) to require notice of a medical review board hearing to be sent by certified rather than registered mail.

SIZE, WEIGHT, AND EQUIPMENT

At least two of the new acts reflect the increasing public concern with automobile safety, repair costs, and emissions. Ch. 485 (S 53) requires any "private passenger automobile" manufactured on or after August 1, 1973, upon its original sale in North Carolina, to be equipped with bumpers of a type that will permit the vehicle to be driven into a "test barrier" at a forward speed of 5 MPH or a reverse speed of 2½ MPH without damaging any part of the vehicle other than the bumper. The new section, G.S. 20–135.4, defines "private passenger automobile" as any four-wheeled motor vehicle designed principally for carrying passengers and not designed for use principally as a dwelling or for camping.

Effective January 1, 1972, G.S. 20–128 will require all motor vehicles (manufactured after model year 1967 and registered in this state) to be equipped with emission-control devices installed at the time of manufacture (Ch. 455—H 482). This same act added a new paragraph to G.S. 20–183.3 ("Inspection Requirements") to prohibit annual safety inspection certificates from being issued for any such motor vehicle not equipped with the required pollution-control equipment. These new standards do not apply to any vehicle that has been converted to operate on a natural or liquified petroleum gas or to vehicles that have been otherwise modified to reduce air pollution provided the modifications have been approved by the State Department of Water and Air Resources.

Ch. 1214 (H 320) added medical doctors and anesthetists to a long list of persons authorized to have red (flashing) lights on their automobiles. G.S. 20–130.1 already allowed police cars, fire-fighting vehicles, ambulances, school buses, rescue squad vehicles, etc., to use this type of light. Since a red light alone does not permit a motorist to exceed the speed limit or exercise the right of way arbitrarily, perhaps G.S. 20–130.1 should be repealed in its entirety. Then anyone wishing to equip his car with such a light would be allowed to do so.

G.S. 20–123(b) was amended by Ch. 639 (H 315) to require all towed vehicles to be firmly attached to the rear of the motor vehicle drawing same, so that the towed vehicle will travel in the path of the motor vehicle drawing it. Before this amendment, G.S. 20–123(b) applied only to trailers and semitrailers.

The 1971 General Assembly added "rear-view mirrors" to a list of items contained in G.S. 20–183.3 that are subject to an annual safety inspection. Before this amendment, which is contained in Ch. 478 (H 470), the following items were subject to such inspection: brakes, lights, horn, steering mechanism, windshield wiper, directional signals, and tires. Ch. 478 is effective January 1, 1972.

Ch. 688 (H 93) and Ch. 1079 (H 1453) rewrote G.S. 20–116(g) to provide that vehicles loaded with rocks, gravel, stone, etc., shall not be driven on a public highway "unless the height of the load against all four walls does not extend above the horizontal line six inches below their tops when loaded at the loading point." In lieu of meeting this requirement, the load may be securely covered with a tarpaulin or otherwise constructed to keep it from dropping, sifting, leaking, or blowing. These new requirements are effective January 1, 1972. G.S. 20–116(g) was also amended by Ch. 680 (H 1123) to make the section inapplicable to the transportation of poultry or livestock.

One of the size, weight, and equipment acts relates only to farm vehicles. G.S. 20–116(j) was modified by Ch. 128 (H 232) to permit self-propelled grain combines and other farm equipment not over 18 feet wide to be operated on any road other than those that are part of the national system of interstate and defense highways. Before this amendment, the width of these vehicles could not exceed 15½ feet.

REGISTRATION AND CERTIFICATES OF TITLE

Four of the new registration acts concern the issuance of special licenses plates. Ch. 829 (H 1292) amended G.S. 20–81.1(a) to increase the fee for a "special amateur radio operator's" plate from $1 to $5. Revenue raised from this additional fee must be placed in a "Amateur Radio Registration Plate Fund"; and, after all costs are deducted, net proceeds are transferred from the fund to the State Highway Commission. G.S. 20–81.1 was also modified by Ch. 589 (S 712) to authorize special plates for persons holding a "Class D Citizens Radio Station License." An additional $5, which also goes into a separate fund, is charged for this special plate. Ch. 42 (H 159) amended G.S. 20–81.3 to provide for personalized registration plates for "private trucks not to exceed one ton manufacturer's rated capacity." Before this

amendment, personalized registration plates could be obtained only for private passenger motor vehicles. A new G.S. 20–81.5 was added by Ch. 601 (H 990) to authorize special license plates for members of the North Carolina Wing of the Civil Air Patrol.

Another category of license was created by enactment of a new G.S. 20–87(4) (Ch. 952—H 1305). These plates are for limousine vehicles only and must be designed so as to be clearly distinguishable from those plates issued for taxicabs. Ch. 952 defines limousine vehicles as "for hire passenger vehicles on call which do not solicit passengers indiscriminately."

Another modification related to license plates is contained in Ch. 107 (S 105). This act amended G.S. 20–51(6) to add trailers or semitrailers transporting "soybeans, corn, hay, or tobacco" to a list of vehicles that are exempt from the registration and certificate of title requirements of G.S. Ch. 20.

Three of the 1971 acts dealt with vehicle title and transfer of title problems. Ch. 99 (H 188) added a new G.S. 20–71(b) to provide for a $500 fine and six months imprisonment for any unauthorized possession of a blank North Carolina motor vehicle certificate of title or facsimile thereof. Ch. 678 (H 1113) deleted a provision from G.S. 20–72 that had required an owner transferring title to his motor vehicle to endorse the name of the transferee and the date of the transfer on the reverse side of the registration card. Ch. 230 (H 189) amended G.S. 20–77(b) to facilitate the transfer of title by heirs when the motor vehicle constitutes the sole asset of the estate. Specifically, the Department may, upon affidavit executed by all heirs, effect the transfer: (1) when the decedent dies intestate and no administrator has qualified; or (2) when a decedent dies testate with a small estate and a will, but the superior court clerk is of the opinion that the size of the estate does not justify the expense of probate.

TRANSPORTATION OF INTOXICATING LIQUORS

A completely new liquor law was enacted by the 1971 General Assembly. Ch. 872 (S 107) created a G.S. Ch. 18A and completely repealed old Ch. 18. A number of G.S. Ch. 14 ("Criminal Law") sections relating to liquor were also repealed by Ch. 872. These Ch. 14 provisions that were taken off the books include: G.S. 14–327 ("Adulteration of liquors"), G.S. 14–328 ("Selling recipe for adulterating liquors"), G.S. 14–330 ("Selling or giving away liquor near political speaking"), G.S. 14–331 ("Giving intoxicants to unmarried minors under 17 years old"), G.S. 14–332 ("Selling or giving intoxicants to unmarried minors by dealers") and G.S. 14–333 ("Public drinking on railway passenger cars").

New G.S. 18A–26 sets a limit of one gallon per vehicle on the quantity of alcoholic beverages that may be transported without a permit. (Alcoholic beverages are defined by G.S. 18A–2 to include only hard liquor, fortified wine, or other beverage containing over 14 per cent of alcohol.) Up to five gallons of fortified wine may be transported with a written permit, pursuant to the provisions of G.S. 18A–27. G.S. 18A–28 authorizes the transportation of five gallons of hard liquor with a permit, but this section is applicable only to the following counties and municipalities: *Counties:* Alamance, Alleghany, Beaufort, Brunswick, Buncombe, Burke, Caldwell, Carteret, Catawba, Columbus, Craven, Cumberland, Dare, Durham, Edgecombe, Forsyth, Granville, Greene, Halifax, Haywood, Henderson, Hoke, Johnston, Jones, Lenoir, Martin, Mecklenburg, Moore, Nash, New Hanover, Orange, Onslow, Pamlico, Pasquotank, Person, Pitt, Richmond, Rowan, Scotland, Tyrrell, Vance, Wake, Warren, Washington, Wayne, and Wilson. *Municipalities:* Clinton, Concord, Dunn, Garland, Greensboro, Hertford, Jamestown, Maxton, Monroe, Mount Pleasant, North Wilkesboro, Pembroke, Reidsville, Roseboro, Rowland, Sanford, Sparta, St. Pauls, Taylorsville, Wadesboro, and Wilkesboro.

A person may purchase outside North Carolina, and bring into the state for his own personal use, not more than one gallon of alcoholic beverages. Permits allowing the transportation of larger amounts are not applicable with respect to out-of-state purchases (G.S. 18A–26). Any open bottles of alcoholic beverages, whether purchased within or outside the state and whether transported with or without a permit, must be kept outside the passenger area. While Ch. 18A does not define exactly what is included within the passenger area, it would be prudent to keep all open bottles in the trunk. G.S. 18A–26 also prohibits alcoholic beverages from being transported in a "for-hire passenger vehicle as defined in G.S. 20–38(20)(b)" (taxicabs), except when the vehicle is transporting a bona fide paying passenger who is the actual owner of the beverages.

Ch. 18A does not impose any restrictions on the amount of malt beverages or unfortified wine that may be lawfully transported. G.S. 18A–35(a) provides that the transportation of these beverages for one's own personal use is permitted without restriction or regulation. A permit is required to purchase over one gallon of unfortified wine, but no such permit is required in order to transport the wine [G.S. 18A–35(b) through (f)]. Subsection (g) of G.S. 18A–35 provides that a person may purchase outside North Carolina, and bring into the state for his own personal use, the same quantity of malt beverages or unfortified wine as he could legally purchase within the state. Ch. 18A does not prohibit having open bottles of beer or unfortified wine in the passenger area, and apparently a person may legally drink beer while driving.

While there are no limits on the amount of malt beverages or unfortified wine that may be transported, possession of certain amounts of these bev-

erages in a vehicle (or elsewhere) creates a prima facie case that the possession is for the purpose of sale in violation of law. G.S. 18A–7 makes the possession of more than five gallons of wine or twenty gallons of malt beverages (except in kegs) prima facie evidence of unlawful possession for sale. Under this same section, the possessor of over one gallon of spirituous (hard) liquor is presumed to be a bootlegger. Thus any person possessing over one gallon of spirituous liquors, five gallons of wine (fortified or unfortified), or twenty gallons of beer might be charged with unlawful possession for the purpose of sale in addition to any other violation he may have committed.

The legal age for the purchase and possession of intoxicating liquors was recodified and placed in a new G.S. 18A–8, but the substance of the law remains the same. A person still must be at least 18 years of age to purchase or possess any malt beverages or unfortified wine and must be at least 21 to purchase or possess fortified wine, hard liquor, or any other beverage containing over 14 per cent of alcohol legally. Even a person transporting a legal amount of beverages might be charged with illegal possession if he is under the required age.

The possession or transportation of any *non-taxpaid* liquor whatsoever remains unlawful under the provisions of G.S. 18A–6. In addition, the possession of any quantity of such liquor constitutes prima facie evidence of unlawful possession for sale. A person transporting non-taxpaid liquor should probably be charged with illegal possession, illegal transportation, and illegal possession for the purpose of sale [G.S. 18A–6, G.S. 18A–7(5)].

When a person is apprehended transporting intoxicating liquor (beer, wine, or whiskey) illegally, G.S. 18A–21 requires the arresting officer to take possession of the vehicle and the illegal liquor. (The vehicle is not confiscated for having an open bottle in the passenger area, as long as the legal amount is not exceeded.) If the defendant is convicted, the vehicle is sold at public auction. Any taxpaid spirituous liquor so seized is turned over to the county commissioners, who must within 90 days give it to hospitals for medical purposes, sell it to ABC stores, or destroy it. Seized malt beverages and wine (fortified or unfortified) must be destroyed.

In January of 1972 the Institute of Government will publish a new book outlining in considerable detail all aspects of the new alcoholic beverage control law.

MISCELLANEOUS

Several bills were enacted that do not readily fit into any of the major subject-matter divisions of the state's motor vehicle law. Four of these miscellaneous acts pertain to the registration or operation of vehicles on campuses of state colleges and universities. Ch. 794 (H 1007) authorizes the trustees of the University of North Carolina, regional universities, and community colleges to adopt reasonable rules and regulations governing the registration and operation of motor vehicles on their respective campuses. A registration fee may be charged which must be placed in a special fund to be used "to develop, maintain, and supervise parking areas and facilities and traffic control." Ch. 1132 (S 591) amended Ch. 853 of the 1969 Session laws to authorize the trustees of Western Carolina University to impose penalties for violations of traffic rules on the campus. Ch. 795 (S. 648) made the provisions of G.S. Ch. 20 applicable to the streets, roads, alleys, and driveways on all campuses of the community college system; and Ch. 839 (S 788) made Ch. 20 applicable to the campus of Pembroke State University.

Ch. 1205 (H 1198), which is entitled "An Act to Amend Article 9A of Chapter 20 of the General Statutes Relating to Security Requirements for the Operation of Motor Vehicles in this State," made important revisions in the laws relating to automobile insurance. This act will be discussed in an article dealing with automobile liability insurance to appear in a later issue of POPULAR GOVERNMENT. Ch. 374 (H 259) created a new section, designated as G.S. 20–37.6, which provides that any person who has lost the use of a leg or is otherwise disabled so that he cannot walk without the aid of a mechanical device shall be allowed to park for unlimited periods in parking zones restricted as to the length of time that parking is permitted. Vehicles operated by these disabled persons are required to have special license plates so that they can be easily identified. This act does not allow parking in zones or during times when the stopping, parking, or standing of all vehicles is prohibited, nor does it apply to those areas that are reserved for special types of vehicles.

Senate Resolution 964, adopted on July 14, 1971, directed the Legislative Research Commission to study the state laws relating to motor vehicles and recommend those revisions of G.S. Ch. 20 that would make the law more cohesive and less ambiguous "to the end that the enforcement authorities and the general public will be more able to understand, enforce and abide by such laws."

The author is an Institute staff member whose fields include motor vehicle law.

Table of Chapter 20 Changes

Each **G.S.** Ch. 20 section that was affected by action of the 1971 General Assembly is listed, in numerical order, in the left-hand column. The middle column indicates the nature of the legislative action, and the right-hand column shows the chapter number of the 1971 Session Laws which made the change.

G.S. §	*Action*	*Chapter Number*
G.S. 20–3.1	Amended by	Ch. 198 (SB329)
G.S. 20–4.4	Amended by	Ch. 588 (SB653)
G.S. 20–7 (L)	Amended by	Ch. 158 (HB301)
G.S. 20–9 (g) (4)	Amended by	Ch. 152 (SB242)
		Ch. 528 (SB696)
G.S. 20–13 (a)	Amended by	Ch. 120 (HB295)
G.S. 20–13 (b) (3)	Amended by	Ch. 120 (HB295)
G.S. 20–13.1	Amended by	Ch. 437 (HB874)
G.S. 20–16 (a) (10a)	Added by	Ch. 234 (SB236)
G.S. 20–16 (c)	Rewritten by	Ch. 793 (HB528)
		Ch. 1198 (SB735)
G.S. 20–16 (d)	Amended by	Ch. 1198 (SB735)
G.S. 20–16.2 (a)	Amended by	Ch. 619 (HB283)
G.S. 20–16.2 (c)	Amended by	Ch. 619 (HB283)
G.S. 20–16.2 (d)	Rewritten by	Ch. 619 (HB283)
G.S. 20–16.2 (g)	Added by	Ch. 619 (HB283)
G.S. 20–17 (2)	Amended by	Ch. 619 (HB283)
G.S. 20–17.1 (a)	Amended by	Ch. 208 (SB214)
		Ch. 401 (SB485)
		Ch. 767 (HB828)
G.S. 20–17.1 (c)	Amended by	Ch. 208 (SB214)
G.S. 20–19 (d)	Amended by	Ch. 619 (HB283)
G.S. 20–19 (e)	Amended by	Ch. 619 (HB283)
G.S. 20–19 (h)	Added by	Ch. 619 (HB283)
G.S. 20–23	Amended by	Ch. 486 (SB115)
G.S. 20–23.2	Amended by	Ch. 619 (HB283)
G.S. 20–26 (a)	Amended by	Ch. 486 (SB115)
G.S. 20–28.1 (d)	Added by	Ch. 163 (HB223)
G.S. 20–29.1	Amended by	Ch. 546 (HB694)
G.S. 20–36	Added by	Ch. 15 (SB68)
G.S. 20–37.6	Added by	Ch. 374 (HB259)
G.S. 20–42 (b)	Amended by	Ch. 749 (HB1045)
G.S. 20–43 (b)	Deleted by	Ch. 1070 (HB1282)
G.S. 20–51 (6)	Amended by	Ch. 107 (SB105)
G.S. 20–55	Amended by	Ch. 1070 (HB1282)
G.S. 20–56	Amended by	Ch. 1070 (HB1282)
G.S. 20–63 (h)	Amended by	Ch. 945 (HB1170)
G.S. 20–71 (b)	Added by	Ch. 99 (HB188)
G.S. 20–72	Amended by	Ch. 678 (HB1113)
G.S. 20–77 (b)	Rewritten by	Ch. 230 (HB189)
G.S. 20–77 (d)	Rewritten by	Ch. 512 (SB275)
		Ch. 876 (SB918)
G.S. 20–78 (b)	Amended by	Ch. 1070 (HB1282)
G.S. 20–81.1	Amended by	Ch. 829 (HB1292)
		Ch. 589 (SB712)
G.S. 20–81.3 (a)	Amended by	Ch. 42 (HB159)
G.S. 20–81.5	Added by	Ch. 601 (HB990)
		Ch. 829 (HB1292)
G.S. 20–84.2	Rewritten by	Ch. 808 (HB1008)
G.S. 20–87 (4)	Added by	Ch. 952 (HB1305)
G.S. 20–87.1	Added by	Ch. 871 (SB815)
G.S. 20–99 (c)	Amended by	Ch. 528 (SB696)
G.S. 20–114 (a)	Amended by	Ch. 528 (SB696)
G.S. 20–116 (g)	Rewritten by	Ch. 688 (HB93)
		Ch. 1079 (HB1453)
		Ch. 680 (HB1123)
G.S. 20–116 (j)	Amended by	Ch. 128 (HB232)
G.S. 20–123 (b)	Amended by	Ch. 639 (HB315)
G.S. 20–128	Added by	Ch. 455 (HB482)
G.S. 20–130.1	Amended by	Ch. 1214 (HB320)
G.S. 20–135.4	Added by	Ch. 485 (SB53)
G.S. 20–138	Rewritten by	Ch. 619 (HB283)
G.S. 20–139	Rewritten by	Ch. 619 (HB283)
G.S. 20–139.1 (a)	Amended by	Ch. 619 (HB283)
G.S. 20–139.1 (f)	Amended by	Ch. 619 (HB283)
G.S. 20–141 (b) (5)	Amended by	Ch. 79 (HB141)
G.S. 20–141 (b1) (2)	Rewritten by	Ch. 79 (HB141)
G.S. 20–141 (b1) (3)	Repealed by	Ch. 79 (HB141)
G.S. 20–145	Amended by	Ch. 5 (HB23)
G.S. 20–156 (b)	Amended by	Ch. 78 (HB25)
		Ch. 106 (HB475)
G.S. 20–157 (a)	Amended by	Ch. 366 (HB24)
G.S. 20–157 (e)	Amended by	Ch. 366 (HB24)
G.S. 20–161	Rewritten by	Ch. 294 (SB57)
G.S. 20–162.3	Added by	Ch. 1220 (SB931)
G.S. 20–166 (b)	Rewritten by	Ch. 958 (SB227)
G.S. 20–166.1 (a) (b)	Amended by	Ch. 763 (HB111)
G.S. 20–166.1 (b)	Amended by	Ch. 55 (SB70)
G.S. 20–166.1 (c)	Rewritten by	Ch. 958 (SB227)
G.S. 20–179 (a)	Rewritten by	Ch. 619 (HB283)
G.S. 20–179 (b) (1)	Rewritten by	Ch. 1133 (SB621)
		Ch. 226 (SB110)
G.S. 20–179 (b) (2)	Amended by	Ch. 619 (HB283)
G.S. 20–183.3	Amended by	Ch. 455 (HB482)
		Ch. 478 (HB470)
G.S. 20–187.1 (b)	Rewritten by	Ch. 848 (HB1175)
G.S. 20–187.2	Added by	Ch. 669 (SB487)
G.S. 20–217	Amended by	Ch. 245 (HB449)
G.S. 20–218	Amended by	Ch. 293 (HB673)
G.S. 20–219.1	Repealed by	Ch. 294 (SB57)
G.S. 20–279.1 (11)	Rewritten by	Ch. 1205 (HB1198)
G.S. 20–279.4	Amended by	Ch. 763 (HB111)
G.S. 20–279.5 (a)	Amended by	Ch. 763 (HB111)
G.S. 20–279.21 (b) (3)	Amended by	Ch. 1205 (HB1198)
G.S. 20–279.34	Rewritten by	Ch. 1205 (HB1198)
G.S. 20–309 (c)	Rewritten by	Ch. 477 (HB388)
		Ch. 924 (HB1243)
G.S. 20–309 (e)	Rewritten by	Ch. 477 (HB388)
G.S. 20–310	Rewritten by	Ch. 1205 (HB1198)
G.S. 20–311	Rewritten by	Ch. 477 (HB388)
G.S. 20–316	Added by	Ch. 1218 (SB924)

North Carolina's First Cohesive Law of Access

By ELMER R. OETTINGER

WANTED: A Cohesive Law of Access! That was the title of an article I wrote and published in the June 1969 issue of *Popular Government*. The article was adapted from comments I had made that year to our Fifth Annual North Carolina Press-Broadcasters Local Government Reporting Seminar. It began with these words:

> Put together the North Carolina statutes relating to access to public proceedings and public records and you have an odd mix. Their sum is a patchwork of yes, no, and maybe. Their bases range from obvious logic to apparent illogic or happenstance. The body of law on access has grown haphazard. In areas where there has been design, the purpose could stand reexamination. In an age where gubernatorial and legislative commissions have been appointed to consider and report back to the Governor and the General Assembly on matters ranging from state constitutional revision to local government, it seems an appropriate time to consider the need to bring the laws of access in the State into harmony with one another and with the rights and interrelationships of government, news media, and public alike.

The fact is that until a few months ago the law of access in North Carolina was a veritable jungle. As in most jungles, one could get lost, hurt, and even buried. The law relating to access to the meetings of municipal governing bodies was very different from the law governing the meetings of county governing bodies. The question of access to meetings of local boards of education had been determined by a decision of the North Carolina Supreme Court back in 1951. The word was that such local education boards could, if they wished, close their doors and hold executive sessions. To how many other public boards whose meetings were not covered by specific statute this reasoning might apply remained in doubt for the next twenty years.

Police blotters were generally kept open, but the records of the State Bureau of Investigation were declared by statute to be restricted. So, of course, were income tax returns and reports, records of probation officers, records of adoption proceedings, Employment Security Commission records, Public Welfare records (insofar as they related to recipients of public assistance), records of the State Commission for the Blind, Industrial Commission records (that is, the Workmen's Compensation Act), records of the Commissioner of Banks, and others.

Public records were, and still are, clearly defined as comprising "all written or printed books, papers, letters, documents and maps made and received in pursuance of law by the public offices of the state and its counties, municipalities, and other subdivisions of government in the transaction of public business" (G.S. 132–1). It was further specified that "every person having custody of public records shall permit them to be inspected and examined at reasonable times and under his supervision by any person, and he shall furnish certified copies thereof on payment of fees as prescribed by law" (G.S. 132–6). The question whether certain records relating to intimate medical, legal, or social aspects of life may be made public were complicated. For example, medical records could remain with the Vital Statistics registrar for a week before the law required that they be turned over to the Register of Deeds. Furthermore, certain protections have always been accorded to natural and adoptive parents of children born out of wedlock and to the children themselves. Question of access to hospital records brought verbal, editorial, and legal battles in several parts of the state.

As for judicial matters, trials are and have been open to the public. However, the judge may clear the

courtroom under certain conditions or for certain testimony. He also has the prerogative of providing protection from publicity to juveniles whenever he thinks it is desirable or necessary. Furthermore, the whole question of freedom of the press to cover and report matters relating to defendants and cases before trial has undergone extensive examination at state and national level. In recent months North Carolina guidelines have been agreed upon and adopted by judges, bar, press, broadcasters, and law enforcement officers, as to both criminal and juvenile proceedings.

Uncertainties about pretrial publicity, however, have been a thing apart from the uncertainties of covering and reporting the meetings of local governing bodies and state legislative bodies. In North Carolina most legislative committees have maintained open meetings—until some go into executive session. At that point, through the years the capitol correspondents have been given the option of staying and not reporting the proceedings or leaving and trying to find out and report what happened inside the meeting room. Legislative Appropriations and Revenue Committees, among others, have closed their doors. Certain meetings of the Advisory Budget Commission, which establishes the state's basic biennial budget, have been closed.

As for local access, before 1951 the law required that every meeting of boards of county commissioners be open to all persons. In that year the "open meetings" requirement was deleted from the statutes. From 1951 to 1955 none of North Carolina's 100 counties were required to open the meetings of its board of commissioners. In 1955 the requirement of open commissioners' meetings were re-enacted for Guilford, Harnett, Moore, Nash, Person, and Orange—but that was only for six counties. From 1955 until July 1, 1971, the boards of commissioners of the other 94 counties could close their meetings if they wished (G.S. 153–8). On the other hand, during that time municipal governing boards' meetings were required to be open to the public: ". . . all legislative sessions shall be open to the public and every matter shall be put to a vote, the result of which shall be duly recorded. The governing body shall not by executive session or otherwise consider or vote on any question in private session. A full and accurate journal of the proceedings shall be open to the inspection of any qualified registered voter of the city." [G.S. 160–269]

This clear requirement of open meetings of city governing boards conflicted with the permission to close meetings granted to boards of county commissioners. Of the over-all situation I wrote in my 1969 article:

> . . . there exists an access jungle that requires systematic and careful consideration, which holds dangers, both constitutional and practical that we can ill afford to ignore. Paths need to be opened through this jungle, its foliage analyzed and the needs for pruning and replanting determined on the basis of accurate charts and maps. One indication of the existence and complexity of this access jungle lies in the dozen or two dozen telephone calls I receive monthly from newsmen seeking answers to questions as to their rights to attend specific meetings or inspect certain records.

BUT CHANGES ARE NOTICEABLE. The word "jungle" no longer applies to the law of access in North Carolina. The 1971 General Assembly adopted a cohesive law of access. Two bills were introduced in the House early in the session; HB 51, introduced by Representative J. Ernest Paschall, provided that with specified exceptions all meetings of legislative, executive, administrative, or advisory bodies of the state, counties, municipalities, and other local boards and subdivisions were to be open. That bill eventually became law. HB 113, introduced by Representative Carl J. Stewart, Jr., contained parallel provisions; it also specifically gave every North Carolina citizen the right to attend such meetings and forbade private, executive, or secret sessions. The legislation underwent extensive amendment and finally emerged from subcommittee as a committee substitute. The primary changes were embodied in a growing list of exemptions from the open-meetings requirement. The much-revised bill was passed by the House on March 24, by a vote of 110 to 1. Almost three months later, on June 11, the Senate passed a further amended version of the bill, 39 to 1. The House concurred unanimously on the revised bill.

The new law, effective July 1, begins with a declaration of public policy, as follows: "Whereas the commissions, committees, boards, councils, and other governing and governmental bodies which administer the legislative and executive functions of this State and it political subdivisions exist solely to conduct the people's business, it is the public policy of this State that the hearings, deliberations and actions of said bodies be conducted openly." The act then provides that all official meetings are to be open to the public: "All official meetings of the governing and governmental bodies of this State and its political subdivisions, including all state, county, city and municipal commissions, committees, boards, authorities, and councils and any subdivision, subcommittee, or other subsidiary or component part thereof which have or claim authority to conduct hearings, deliberate or act as bodies politic and in the public interest shall be open to the public."

It then defines public meetings: "Every meeting, assembly, or gathering together at any time or place of a majority of the members of such governing or governmental body for the purpose of conducting hearings, participating in deliberations, or voting upon or otherwise transacting the public business

within the jurisdiction, real or apparent, of said body, shall constitute an official meeting, but any social meeting or other informal assembly or gathering together members of any such body shall not constitute an official meeting unless called or held to evade the spirit or purpose of this article." Following those clear statements of purpose and law, the exceptions to the open-meetings act are listed. These include public bodies holding executive sessions on property purchase or disposal, negotiations between public employers and employees, hospital records, physician-patient and lawyer-client relationships, most personnel matters, consideration of riot conditions, licensing and disciplinary board meetings, study and investigating commissions, quasi-judicial bodies making judicatory decisions, executive sessions of committees or subcommittees of the General Assembly, the Advisory Budget Commission, the Board of Awards, the Board of Paroles, Probation Commission, law enforcement agencies, and grand and petit juries.

Specifically, the new law requires that by majority vote, during any regular or special meetings, a board or other governmental body may hold "an executive session and exclude the public" while considering:

(1) Acquisition, lease, or alienation of property;

(2) Negotiations between public employers and their employees or representatives thereof as to employment;

(3) Matters dealing with patients, employees or members of the medical staff of a hospital or medical clinic (including but not limited to all aspects of admission, treatment, and discharge; all medical records, reports, and summaries; all charges, accounts, and credit information pertaining to said patients; all negotiations, contracts, conditions, assignments, regulations, and disciplines relating to employees; and all aspects of hospital management, operation and discipline relating to members of the medical staff);

(4) Any matter coming within the physician-patient, lawyer-client, or any other privileged relationship;

(5) Conferences with legal counsel and other deliberations concerning the prosecution, defense, settlement or litigation of any judicial action or proceeding in which the governing or governmental body is a party or by which it is directly affected.

The law also permits closed sessions to consider information regarding the appointment, employment, discipline, termination, or dismissal of an employee or officer under the jurisdiction of such body and to hear and consider testimony on an applicant against such employee or officer; final action on the discharge of any employee for cause after hearing must be taken in open session if such discharge is within the exclusive jurisdiction of said governing body. Nor does the law prevent any board of education or governing body of any public institution, or any committee or officer thereof, from hearing, considering, and deciding disciplinary cases involving students in closed session.

Certain agencies of government are specifically excepted from the operation of the statute:

The Council of State,

The Board of Awards,

The N. C. State Board of Paroles,

The State Probation Commission,

All law enforcement Agencies,

Grand and petit juries,

All study, research and investigative commissions and committees including the Legislative Services Commission,

All state agencies, commissions, or boards exercising quasi-judicial functions during any meeting or session held solely for the purpose of making a decision in an adjudicatory action or proceeding,

Every board enumerated in G.S. 150–9 and every board, commission, council or other body, or any committee thereof, authorized by statute to investigate, examine, and determine the character and other qualifications of applicants for license to practice any profession in the state, or authorized to suspend or revoke licenses of, or to reprimand or take disciplinary action concerning any person licensed to engage in the practice of any profession in the state. But the act does not amend, repeal, or supersede any statute, now existing or hereinafter enacted, that requires a public hearing or other practice and procedure in any proceeding before any such board, commission, or other body, or any committee thereof.

The law also excepts committees and subcommittees of the state legislature: "Any committee or subcommittee of the General Assembly has the inherent right to hold an executive session when it determines that it is absolutely necessary to have such a session in order to prevent personal embarrassment or when it is in the best interest of the State; and in no event shall any final action be taken by any committee or subcommittee except in open session." That provision came about through a Senate floor amendment and was designed to include a portion of a Senate rule.

The open-meetings law does not apply to meetings of the state's Advisory Budget Commission held for actual preparation of the budget. This statute does not, however, amend, repeal, or supersede provisions of the State Budget Act requiring public hearings on estimates to be included in the budget.

The new law also has sections on riots and disruptions. One section permits boards of county commissioners, boards of education, and the governing body of any municipal corporation, faced with the existence of a riot or with conditions indicating that a riot or public disorder is imminent within their territorial jurisdiction, to meet in private sessions with law enforcement officers and others they may invite to consider and take appropriate action deemed

necessary to cope with the existing situation during any such emergency, and they are authorized to exclude other members of the public from the meeting. Another section makes it a misdemeanor, punishable upon conviction by imprisonment for not over six months or a fine of $250 or both, for any person willfully to interrupt, disturb, or disrupt any official meeting required by law to be open to the public, when such person is directed to leave the meeting by the presiding officer and willfully refuses. Perhaps more important, any citizen denied access to a meeting required to be open has, in addition to other remedies, a right to compel compliance with the provisions of the law by applying to a court of competent jurisdiction for a restraining order, injunction, or other appropriate relief. All laws in conflict with this law are repealed.

SO MUCH FOR THE PROVISIONS of the open-meetings law. Before evaluating it in terms of gains and losses, let us consider the role of the news media in its enactment. In 1967 the North Carolina Press Association had drafted an open-meetings bill and sought to have it introduced in the General Assembly. It took weeks to find one legislator willing to introduce the measure. That the bill would lie dormant in committee throughout the session was a foregone conclusion. This year two legislators, J. Ernest Pascall of Wilson and Carl J. Stewart, Jr., of Gastonia, introduced the open-meetings bills of their own initiative. Both the press and broadcasters associations endorsed the legislation and worked actively for its passage. Without the momentum generated by the legislators who saw the need for, believed in, and fought for open-meetings legislation, all the efforts of media representatives likely would have gone for naught. The will of the press cannot be imposed upon a legislature; there must be legislative will for legislative action. This is not to derogate the roles of those newsmen whose efforts were spurs and catalysts to the passage of the open-meetings legislation. But the role played by legislators with no media affiliation is recognized by the press and broadcast newsmen of the state.

What are the values and significance of the new law as compared and contrasted with the patchwork of the past? Here is the balance sheet:

(1) The open-meetings law provides cohesion where before there was only a patchwork jungle.

(2) The new legislation provides certainty whereas before there were no guidelines and no certainty relating to access to any meetings at state and local level.

(3)The new legislation provides legal access to meetings of many governmental bodies where before there was no or little assurance of legal access. In other words, legislative and governing boards and commissions in North Carolina, state and local, can no longer hold secret meetings without violating a statute nor may they hold any sort of executive or private session except in those instances specified by law. These three major components—cohesion, certainty, and expanded access—represent clear gain.

Yet there is more gain than that—more than is generally realized. The declaration of a public policy for the state that hearings, deliberations, and actions of public bodies be conducted openly has a significance beyond the statement itself. In the first place that declaration provides a guide to the legislative will and intent that can and will be used in any consideration of open-meetings legislation by future General Assemblies. It also provides guidelines for the courts that will be considered in the event of any litigation relating to the open-meetings law in North Carolina. The double importance of this declaration of intent and purpose cannot be overlooked and should not be underestimated.

On the negative side, the new legislation places limits on those matters that must be openly considered by the governing boards of cities and towns where before there were no limits. It also contains a rather large number of exceptions and exemptions from its basic requirement of open meetings and open decisions openly arrived at.

HOWEVER, HERE, as a practical matter, the media should consider whether this loss is actual or theoretical. Think back: Did the press really have access to board considerations on such matters as prospective land purchases or sales and matters relating to personnel? Newspaper editors and publishers have told me that these and other subjects presently excepted from those required to be submitted to press and public gaze have generally been conducted under wraps in the past and that gains in access under the new law far outweigh any losses.

Experience with the matter of access has no doubt varied from paper to paper and from station to station and from community to community. I have tried to keep up with what is happening with regard to access to meetings in the state for a number of years. My own rather informal survey and experience indicate that the vast majority of city and county board meetings have been open, regardless of the existing law or lack of law. My impression has been that most pre-meeting conferences between board members have been informal, *ad hoc* conversations between one, two, or three people rather than meetings of the whole board, and have related for the most part to those sensitive areas that have been excluded from the open-meetings requirements in the new law. I have, though, noted from time to time in the press articles claiming that certain local boards had held or were holding closed meetings in violation of the law. But the very vigilance of the media has served as a check on what might have been flagrant conduct of meetings in private and stands as a tribute to the capacity of alert, determined newsmen to see that

representative government truly is conducted in a representative and public way. Clearly, the awareness of their responsibility to the public by most officials has contributed largely to the healthy tradition of open meetings for most government bodies.

Further, it seems to me that both government and the media recognize that there always will be differences growing out of their divergent responsibilities and the mutual awareness that differences in responsibilities can cause differences in perspective, approach, and action. I would say frankly that when I was a member of the press corps I sought to find out what transpired in every public meeting within my purview, interest, and coverage. I may not have always succeeded but I tried, and what I discovered I reported unless there seemed to be very sound reason for not reporting it.

However, were I a member of a public body and if I needed to discuss the competence, performance, promotability, or other qualities of personnel subject to my supervision or responsibility, I might well feel that confidentiality and privacy were important to my freedom to discuss such matters. Similarly, knowing that an open listing of land sites under consideration for governmental purchase almost inevitably results in a jacking-up of the price, I might very well think favorably about closing such matters to press and public. For the news media have no right to information that the public does not have. The media get their right from the public's "right to know"—whatever that may be—and they admit it.

Beyond and above all stands the ultimate question of what is right and essential for a free, responsible, responsive government and a free, inquiring people. Usually, in my experience, the ultimate answer is the same for both government and people, for they cannot be dissociated. One question that must be met is whether an absolute answer such as access to everything is essential to news freedom in the long view. Another is whether total access could serve to make media and government more responsible or merely more contentious. In other words I think we must always talk in terms of what is fair and just and equitable and, where there are conflicting viewpoints and responsibilities, what sort of accommodation, what sort of *modus operandi et vivendi*, what sort of compromises within the limits of principle can be and have to be made. I am not speaking of compromising the First Amendment. Clearly there are limits beyond which no newsman worthy of his salt will compromise. He has to protect his ability and his right to cover the news, within government and without, and to cover the news accurately, quickly, intelligently, and in breadth and depth. He must do this in his own interest and in the public interest. He must not only keep but be able to use his governmental sources. Those sources include meetings and documents. But he must, and generally does, recognize that thought processes in government as without, can require a certain degree of privacy for growth and development. If sunlight is important to life and health, so is shade. And so is quiet deliberation. Thought is deliberative and very difficult to come by in large and cogent doses amid public clamor. A distinction, then, must be made between the honest preliminary development of governmental ideas and an effort to cover up incompetence or unsavory aspects of governmental action. In the former case there must be some dispensation, some accomodation. In the latter, the media have not only the right but also the duty to investigate, to report, to interpret, and to expose fully to the public gaze that which is wrong, that which demeans, that which makes less competent and less worthy people in and processes of government.

YET ACCESS is a much more complex matter than access to local and statewide governmental meetings and records. Access relates to national and indeed to world government. Its concerns have never been more evident than in recent months when "Pentagon Papers" have become household words and the subject matter for a momentous decision of the United States Supreme Court. If that decision confirmed that prior restraint should not be exercised upon news publication, whatever the nature of the news, it it reconfirmed the importance of freedom of the press as not only a guarantee of the First Amendment to our federal Constitution but a first commandment to the fundamental faith of our democracy, if it helped close the gap between governmental and public understanding, it nonetheless remains one very special decision in a very special case. Important as it is, it is clear that in different circumstances Justice White and Justice Stewart might well vote otherwise. It is equally apparent that Justices Black and Douglas, who consistently have held that press freedom is absolute, also were the oldest members of the Supreme Court. Justice Black has now retired. The appointment of other justices could make a vast difference in some future case regarding prior restraint of the news media. The relationship between access to meetings and documents at state and local level to prior restraint at federal level cannot be ignored. Although national security is not involved at state or local level, the over-all constitutional concept of press freedom is one, and the whole is no stronger than its weakest link.

In my June 1969 article I wrote: "The road to legal certainty in access is tortuous. . . . The benefits from a comprehensive access law are many. It would provide certainty for both public officials and news media. It would bring logic and consistency to an unordered and sometimes disordered body of law and custom. It would confirm a working philosophy of access consonant with constitutional guarantees and the democratic process."

(Continued on Page 19)

book reviews

PLANNED RESIDENTIAL ENVIRONMENTS, by *John B. Lansing, Robert W. Marans,* and *Robert B. Zehner.* Ann Arbor, Mich.: Institute for Social Research, University of Michigan, 1970. 269 pp. Paperbound, $5.00; hard cover, $7.00.

This book is a report of a research project of great potential value to city planners, who routinely note that "planning is for people" but do not always know what the people need and want. The researchers studied ten communities classified as "highly planned," "moderately planned," and "least planned." Eight of these were suburban areas (six new—like Reston, Va., and Columbia, Md.—two old, like Radburn, N. J.) and two were in-town redeveloped areas. In each of the ten, they conducted an intensive survey of the characteristics of the residents and their attitudes toward and use of particular facilities (the researchers were especially concerned with the use of transportation facilities and with the nature and frequency of trips of various types).

Planners will find much useful information in this report. To quote only two samples from the summary:

"Overall satisfaction with the community in the suburban areas is highest in the new towns, Reston and Columbia. . . . In all communities the item most mentioned as a source of satisfaction with the community was the nearness or accessibility of work, shopping, and other facilities. The extent of a community's planning was mentioned more often as a reason for moving to a community than as a reason for satisfaction once people had lived there."

"Residents' responses to their immediate environments indicate that dwelling unit density underlies many factors important to neighborhood satisfaction including privacy in the yard; neighborhood noise level; and the adequacy of outdoor space for family activities. Density, however, operates indirectly through these factors and the correlation between density and satisfaction is not high. Whether a neighborhood is 'well kept up' is the best single predictor of neighborhood satisfaction. The compatibility of neighborhood residents is the next most important factor."—P.P.G.,Jr.

* * *

A PROPOSAL TO CHANGE THE STRUCTURE OF CITY PLANNING, by Beverly Moss Spatt. New York: Praeger Publishers, 1971. 115 pp. $10.00.

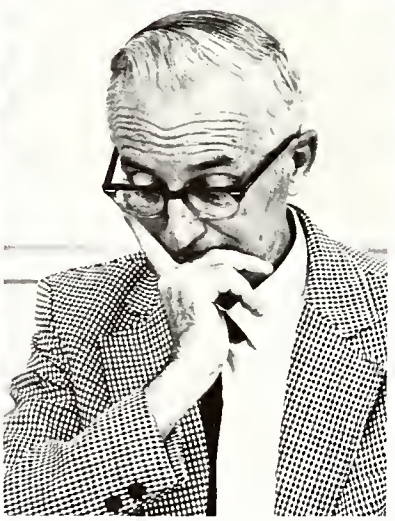
With many serious questions being raised as to the most appropriate form of organization for city planning, this book is well timed. Unfortunately, despite the credentials of its author (who has been a member of the New York City Planning Commission as well as a faculty member of the New School for Social Research), it turns out to be polemical rather than analytical. As such it will have little interest to readers outside New York City.—P.P.G.,Jr.

* * *

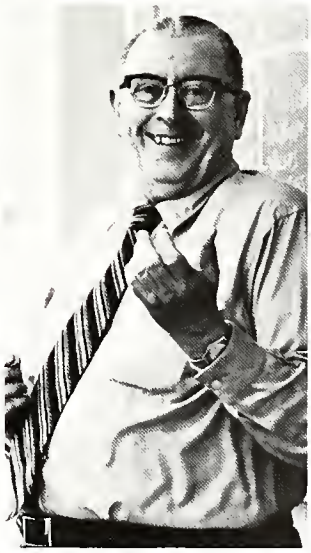
URBAN RENEWAL ADMINISTRATION, by Emanuel Gorland. Detroit: Wayne State University Press, 1971. 145 pp. $9.95.

Administration of local urban renewal programs is surely one of the most complex jobs in local government. The administrator must know state statutes, state court decisions, federal law, and a virtual library of federal regulations and instructions in order to be able to handle the simplest project. To the "outsider" concerned with only a segment of an urban renewal program (e.g., the city manager, city planning director, building inspector, city councilman, lower-level staff members of the renewal agency itself, city engineer, city attorney—or persons living in areas subject to urban renewal), the process is indeed a maze.

Mr. Gorland has put together an extremely useful little book as a "primer" to guide such people, as well as the administrator, through this maze. It is designed to be used in conjunction with the handbooks published by the Department of Housing and Urban Development, serving as both an index to and explanation of these more detailed manuals. Although the price seems high in relation to the size of the book, it will be a valuable addition to any municipal library.—P.P.G.,Jr.



Inside the Institute



The author's field at the Institute includes health law.

THE PROBLEM OF NOISE: Has anyone heard an answer?

By David G. Warren

A moment of quiet, like fresh water and clean air, is threatened by aural pollution. The physician and immunologist Robert Koch predicted near the turn of the last century that "the day will come when man will have to fight noise as inexorably as cholera and plague."[1] That day may well be upon us. The explosion of both the population and technological society have blatantly increased the American noise level to the extent that even the countryside is disquieted.[2]

WHAT IS NOISE?

The old query "If a tree fell in the forest primeval, would there be any sound?" focuses on the definition of sound. "Sound" may be said to be a function of hearing; without a hearer there is no sound. "Noise" is generally considered to be a particular type of sound, an unwanted sound.[3]

Sound travels in waves through some medium, usually air. It is measured for frequency by cycles per second and for intensity by decibels, numerical values ranging from 0 to 200. Since the human ear is more sensitive to high than low frequencies, an accurate measurement of sound must consider both frequency and intensity. Scientists have devised a way to do this. Called the "A-weighted scale," it is based on a formula derived from the "equal loudness contour." With it, sounds are accurately measured and compared, which is at least a start in learning how to control noisome sounds.

1. Ratliff, *Quiet Please!*, READER'S DIGEST, Dec. 1961, at 126.
2. Note, *Urban Noise Control*, 4 COLUM. J. LAW & SOC. PROB. 105 (1968).
3. Note, *Noise Pollution*, 35 ALBANY L. REV. 105, 108 (1970).

EFFECTS OF NOISE POLLUTION

Prolonged exposure to high levels of noise can produce permanent hearing loss.[4] The first workman's compensation for hearing loss was awarded in 1948,[5] and since then research on the effects of aural perception has been intensified.[6] Although conclusive proof that noise causes physical ailments other than loss of hearing has not been presented, some physicians have reported a connection between excessive noise and heart disease, migraine headaches, gastrointestinal disorders, and some allergies.[7]

The psychological effects of noise pollution are even harder to prove than the physical effects. Studies have shown, however, that noise interferes with normal conversation, hinders concentrated mental effort, induces stress, causes inefficiency at work, prevents sleep, causes irritability, and interferes with relaxation and recreation.[8] Some investigators even report a connection between excessive noise and mental disorders.[9]

Members of the Maban tribe in Sudan, Africa, one of the planet's "quiet zones," hear as well at 70 years of age as the average New Yorker at 20.[10] Disturbingly, an estimated 5,000,000 American males from 10 to 59 years of age have some degree of hearing loss, and 1,000,000 need hearing aids.[11]

4. Hearing loss is covered under North Carolina workmen's compensation law. N.C. GEN. STAT. § 97-31(18).
5. Slawinski v. J. H. Williams & Co., 298 N.Y. 546, 81 N.E.2d 3 (1948).
6. *See, e.g.*, Note *supra* note 2.
7. Beranck, *Noise*, SCIENTIFIC AMERICAN, Dec. 1966, at 28.
8. Anthray, *The Noise Crisis*, 20 U. TORONTO L.J. 1 (1970).
9. *See* Note *supra* note 2, at 106-7.
10. T. AYLESWORTH, THIS VITAL AIR, THIS VITAL WATER 149 (1968).
11. *Id.* at 152.

Humans can hear sounds to 130 decibels at a frequency from 18 to 18,000 cycles per second.[12] The normal "discomfort threshold" is 119 decibels and the "pain threshold" is 143 decibels.[13] A whisper is 40 decibels; ordinary speech, 60; a shout, 100; a blaring radio, 120; a four-propeller aircraft, 140; and a military turbojet engine, 180.[14] Inevitably, the annoyance level and the physical and psychological effects vary with the individual, what he is doing, his prior noise conditioning, and the character of the noise.

LEGAL TOOLS TO CONTROL NOISE POLLUTION

Some noises are more offensive than others measured against an established norm and against personal sensitivities. Certainly those noises that have no "socially redeeming value,"[15] like those emitted by defective automobile mufflers and indiscriminate fireworks, should be prohibited. Some noises are offensive by design—for example, railroad signals, burglar alarms, and police sirens. Other kinds of noises are harder to classify. The whine or roar or buzz of a machine can clearly be an offensive noise but might be allowable within limits because it is the by-product of a socially beneficial activity[16]—for example, a lawnmower or an airhammer or a typewriter.

Let's look at some of the legal tools that are available for noise control:

Nuisance Action. The *private nuisance* action has been sporadically used to attack noise pollution in North Carolina.[17] Private nuisance is a civil tort action defined as "any substantial non-trespassory invasion of another's interest in the private use and enjoyment of land by any type of liability forming conduct."[18] To be a private nuisance, an interference must be both substantial—that is, "more than (a) slight inconvenience or petty annoyance"[19]—and a proximate or legal cause of the harm alleged. A lawful enterprise cannot be a nuisance per se or automatically;[20] rather, it must be determined to be a nuisance in light of and after weighing the surrounding circumstances.

One court observed: "To amount to a nuisance, noise must be unreasonable in degree. Where noise accompanies an otherwise lawful pursuit, whether such a noise is a nuisance depends on the locality, the degree of intensity and disagreeableness of the sounds, their times and frequency, and their effect, not on peculiar and unusual individuals but ordinary, normal and reasonable persons of the locality."[21] The courts of North Carolina recognized as early as 1904 that "frightful noises" could injure health and destroy the comfort of one's home,[22] but they continue to have great difficulty in measuring the actual and potential effects of noise.[23]

A *public nuisance* is one affecting the public as a whole,[24] and its maintenance is an offense against the state.[25] Interferences with public health, safety, morals, peace, comfort, convenience, thrift, or economy may constitute public nuisances.[26] There are no reported cases in which an action for public nuisance was successfully maintained against an alleged noise polluter in North Carolina.

A private citizen sustaining unusual and special damages can also maintain a private action against a public nuisance;[27] however, most jurisdictions require a difference in kind rather than merely degree of damage.[28]

The General Assembly has delegated the authority to abate nuisances to local government. The governing bodies of incorporated cities and towns,[29] counties,[30] sanitary districts and boards of health[31] have ordinance-making powers, and local health directors[32] can issue abatement orders for threats to the public health.

Several difficulties with relying on the application of the nuisance doctrine to control noise pollution are immediately obvious and help explain why it has not been effectively used: (1) It is unclear under what circumstances a noise is a nuisance. Is the interference substantial? Is it reasonable? What is a normal and reasonable hearer? (2) It may be difficult to assign responsibility for the harm done among several noises, and a judgment against joint and several tortfeasors might be unfair. (3) It is unpromising to expect that many citizens will be consistently willing to invest the requisite time, effort, and money to pursue court action[33] or to pressure the government into actively applying its nuisance powers.

Inverse Condemnation. On the theory that aircraft landing and take-off operations in the air space

12. *Id.* at 151.
13. *See* Note *supra* note 3, at 107.
14. *Id.* at 106.
15. A term borrowed advisedly from obscenity law.
16. *See* Note *supra* note 2.
17. *E.g.*, Barrier v. Troutman, 231 N.C. 47, 55 S.E.2d 923 (1949).
18. Morgan v. High Penn Oil Co., 238 N.C. 185, 193, 77 S.E.2d 682, 689 (1953).
19. Watts v. Pama Manufacturing Co., 256 N.C. 611, 619, 124 S.E.2d 809, 815 (1962).
20. State v. Brown, 250 N.C. 54, 108 S.E.2d 74 (1959).
21. Hooks v. International Speedways Inc., 263 N.C. 686, 691–92, 140 S.E.2d 387, 392 (1965). On the basis that one's peculiar sensibilities are not a factor to consider, the court in *State v. Hughes*, 72 N.C. 25 (1875), held that a parade celebrating the Emancipation Proclamation was not a nuisance per se or on its facts.
22. Redd v. Cotton Mills, 136 N.C. 342, 343–44, 48 S.E. 761, 762–63 (1904). Here the court found a steamwhistle not to be a nuisance but granted that it could be in some cases.
23. *E.g.*, Dorsett v. Group Development Corp., 2 N.C. App. 120, 162 S.E.2d 653 (1968). In this case the court refused to enjoin the building of an asphalt plant because the alleged nuisances of odor and noise were merely apprehended and not seriously threatened. *But see* Hooks v. International Speedways, Inc., 263 N.C. 686, 140 S.E.2d 387 (1965), where the court did enjoin an anticipated nuisance.
24. Carpenter v. Boyles, 213 N.C. 432, 196 S.E. 850 (1938).
25. Dickey v. Alverson, 225 N.C. 29, 33 S.E.2d 135 (1945).
26. State v. Brown, 221 N.C. 301, 20 S.E.2d 286 (1942); W. PROSSER, LAW OF TORTS § 89, at 605–06 (3d ed. 1964).
27. Barrier v. Troutman, 231 N.C. 185, 77 S.E.2d 682 (1953).
28. Prosser, *Private Action for Public Nuisance*, 52 U. VA. L. REV. 997 (1966).
29. N.C. GEN. STAT. §§ 160–55, –200(6).
30. N.C. GEN. STAT. § 153–9(55).
31. N.C. GEN. STAT. §130–17.
32. N.C. GEN. STAT. § 130–20.
33. *See generally* Kamon, *Noise Control: Traditional Remedies and a Proposal for Federal Action*, 7 HARV. J. LEGIS. 533 (1970).

immediately above a chicken farm were a "taking" of property within the constitutional sense, the United States Supreme Court awarded the complaining farmer compensatory damages in *U.S. v. Causby*.[34] This inverse condemnation principle has been applied in North Carolina,[35] but only sporadically and only against aircraft. Its application may make aircraft noise more expensive, but it does not promise to succeed even indirectly as a method of effective noise control. The debate over the SST brought forth numerous other suggestions but none with general application.

General Antinoise Laws. The design of antinoise statutes or ordinances must be reasonably directed at preventing or controlling noise. Those like sound-truck ordinances[36] aimed, at least indirectly, at controlling or preventing social or political behavior inevitably raise constitutional free-speech considerations. Some of the more traditional laws are zoning, antinoise city ordinances, and muffler controls; some of the new measures are termed decibel ordinances.

Zoning Ordinances. The General Assembly has granted municipal corporations[37] and, recently, counties[38] the power to zone the use of private property. Ingenious use of zoning requirements can bring about a control over noises to some extent. The zoning ordinances of some municipalities (e.g., the City and County of Durham) require industrial and research districts to conform with the noise level bases of the American Standard Sound Level Measurements.[39] The zoning provisions of the Research Triangle Park for research activities and light industrial operations also rely on the American Standard specifications, with measurements taken at the property line. The Forsyth County zoning regulations allow industries or quarries abutting business districts to make louder noises than those abutting residential districts. Because of proof problems, such ordinances are difficult to enforce, and the lack of contested court cases is evidence that enforcement attempts have been few. Other disadvantages are also apparent. For example, zoning is a tool that is prospective in effect, must be used in conjunction with other planning efforts, and is imprecise in dealing with special problems like occasional construction noises.

Antinoise Ordinances. Pursuant to the authority of G.S. 160–200(17), a number of North Carolina cities have ordinances patterned after the NIMLO model ordinance[40] to control noise.[41] "(A)ny loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others" is declared to be unlawful.[42] Without attempting to be exhaustive, a list is made of those types of noises that are unlawful. These include horns or signaling devices except when used as a danger warning, radios or phonographs played with "louder volume than is necessary," loudspeakers, loud yelling or shouting (especially between 11 p.m. and 7 a.m.), domesticated birds or animals that disturb the comfort of those nearby, steam whistles except as a warning, building construction, hawkers or peddlers, and drums.

Legal problems of vagueness and unreasonableness are immediately suspect in such measures. In *State v. Dorset*[43] the Greensboro version of the NIMLO model statute was attacked as being unconstitutionally vague and indefinite. In that case, five motorcyclists riding in a group at 11:30 p.m. in a residential section of the city were arrested on warrants charging them with disturbing the peace by noise from the motorcycles. In upholding the ordinance, the North Carolina Court of Appeals declared, "The ordinance in question does not define in decibels the intensity of the noise to be prohibited thereby, but such exactness is not required."[44] It continued, "[T]he words loud and unnecessary have a commonly accepted meaning and they give sufficient warning to anyone who has the desire to obey the ordinance."[45] Nevertheless, even if this type of ordinance is not unconstitutionally vague,[46] it is vague enough to make enforcement more difficult.

Muffler Ordinances. The General Assembly has required by statute that each motor vehicle operated on a North Carolina highway be "equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise."[47] The Charlotte ordinance requires motor vehicles to be equipped with a proper muffler, in a condition and a size to silence noise as far as practical.[48]

Decibel Ordinances. Although most states have similar muffler ordinances enacted to attempt to prevent excessive noise from vehicles,[49] three states (California, Connecticut, and New York) have attempted to limit traffic noise through comprehensive antinoise legislation establishing maximum decibel noise levels for vehicles.[50] These statutes are enforced mainly on thruways by the use of portable meters that measure noise levels. These statutes are difficult

34. 328 U.S. 256 (1946). *See also* Griggs v. Allegheny Co., 369 U.S. 84 (1962).
35. Barrier v. Troutman, 231 N.C. 185, 77 S.E.2d 682 (1953).
36. One such law was held to be unconstitutionally vague. Kovacs v. Cooper, 336 U.S. 77, *reh. denied* 336 U.S. 921 (1949).
37. N.C. GEN STAT. §§ 160–172 through –181.2.
38. N.C. GEN STAT. §§ 153–251 through –266.22.
39. Durham Morning Herald, March 15, 1970, p. 4A; CITY CODE OF DURHAM § 24-9 (1969).
40. NIMLO Ordinance Service, edited by Charles S. Rhyne (1960).
41. *E.g.*, CITY CODE OF DURHAM § 13–17; CITY CODE OF TARBORO § 16–14; CITY CODE OF GREENSBORO § 13–12; CITY CODE OF SALISBURY § 16–2.
42. NIMLO Model Ordinance Service §§ 8–301 through –305.
43. 3 N.C. App. 331, 164 S.E.2d 607 (1968).
44. *Id.* at 336, 164 S.E.2d at 610.
45. *Id.*
46. In *Wheeler v. Goodman*, 306 F. Supp. 58 (E.D.N.C. 1969), a federal court declared North Carolina's vagrancy statute, N.C. GEN. STAT. § 14–336, to be unconstitutional since it was so vague and overbroad that men of common intelligence must necessarily guess at its meaning.
47. N.C. GEN. STAT. § 20-128 (1937).
48. CITY OF CHARLOTTE CODE § 20–6.
49. For a compilation of state and local ordinances on noise control, *see* 115 CONG. REC. § E9031–E9112 (daily ed, Oct. 29, 1969).
50. CAL. VEH CODE § 27160 (West Supp. 1969); CONN. GEN. STATS ANN § 14-80 (Supp. 1969); N.Y. VEH. & TRAFFIC LAW § 386 (McKinney Supp. 1968–69).

to enforce, but some sources contend that they can substantially reduce truck and automobile noise.[51] The lack of sophisticated equipment, the training necessary to test accurately for sound, and the fact that the reading is affected by surrounding noise are some of the reasons why enforcement of a decibel ordinance is cumbersome. However, some of the legal problems (primarily vagueness and unreasonableness) inherent in traditional antinoise ordinances are overcome by the relatively more sophisticated decibel limit ordinances.

The New York statute retains some general excessive-noise provisions but includes provisions added in 1965 which regulate vehicle noise in terms of decibels. Measured at a distance of 55 feet, no motor vehicle traveling less than 35 miles per hour can lawfully produce sounds above 88 decibels on the A scale.[52] Unlike other states New York, however, does not regulate high-speed motor vehicle noises. Thus in its first year of operation, the New York statute resulted in the arrest of only fifteen truckers on the New England Thruway![53]

New York City ("Din City") may be made even more aware of its noise problems as a result of Mayor Lindsay's Task Force on Noise Control; a new investigation is now in progress.[54] Continuing noise levels of 85 decibels have been reported on a Fifth Avenue corner (the Air Force, by regulation, requires ear defenders to be worn at levels of 85 decibels).[55] A new noise code whereby low noise levels are set for residential areas and higher levels for manufacturing areas has been proposed. The experience of the wise men in Gotham should be watched so as not to be repeated in more idyllic areas.

51. Hildebrand, *Noise Pollution: An Introduction to the Problem and an Outline for Future Legal Research*, 70 COLUM. L. REV. 652, 676 (1970).
52. N.Y. VEH. & TRAFFIC LAW § 386 (McKinney Supp. 1968-69).
53. *See* Note *supra* note 2, at 112.
54. New York Times, April 13, 1971, p. 39m.
55. *See* Anthray *supra* note 8.

HERE'S THE ANSWER?

Although some[56] in North Carolina have intimated that noise pollution is of little significance in this relatively placid state, unwanted noise certainly will not be avoided or controlled without effort. Private nuisance actions filed in court by an aroused neighbor would probably attract some attention and might be disarming to noise polluters, even if unsuccessful. Public nuisance suits by larger groups of citizens might be more productive, provided good documentation and careful planning are involved. Campaigns to promote enforcement of the antinoise ordinances and statutes already on the books might result in some happy surprises, perhaps even the adoption of modernized and better devised noise control measures. Zoning ordinances could be profitably reexamined with differential noise standards in mind. Better measurement and testing devices should be sought for enforcement.

Ultimately, however, arousal of the public and the public's legislative bodies will be worthwhile only if the scientific and industrial community is stimulated to develop new ways and means to control noise at the source: the design and utilization of quiet machines, tools, vehicles, production methods, industrial processes, and other essential and nonessential soundmakers that are part of our environment.

56. Durham Morning Herald, *supra* note 39.

LAWS OF ACCESS (continued fom page 12)

That article contained this final paragraph:

> The first step is to establish a base of support. That can be done through the approval and acts of encouragement of groups and organizations within the state which have a primary stake in access. If the primary source of inconsistency and confusion seems at local governmental level, the problem is statewide in scope and must be resolved by action at state level. The resolution of the access mess will do more than break the logjam of questions and dissatisfaction. It will affect for the better the entire relationship of government with the people, providing a framework within which credibility gaps can be closed and causes of misunderstanding eradicated.

The course of events would seem to justify and support that conclusion. But I now would suggest that this access law may prove to be just a beginning, a first solid step establishing a central policy and a legal core for a sound system of access. For law alone cannot bring a final resolution of all problems, questions, or needs in governmental access.

No doubt legislative sessions ahead will see attemps to amend the new law, to provide both greater access and lesser access. I have faith that all such efforts rooted in honest evaluation, good will, and a desire to harmonize the needs of both open and effective government will prove useful, if only in furthering the dialogue and the state of the law and practice. Given a broad base of access, government will do, and will remain, responsive to the voice and will of the people. Clearly the public weal will benefit from the deeper and broader understanding made possible by North Carolina's new legal base for access.

STATE OF NORTH CAROLINA

Local Government Commission

The Bond Buyer Index[1]

Date	20 Bonds	11 Bonds
9-30-71	5.24	4.98
9-23-71	5.48	5.25
8-26-71	5.71	5.46
10- 1-7–	6.39	6.23

National Volume Outlook, September 30, 1971

Blue list supply	$ 779 million
30-Day visible	680 million
Total supply	1,459 million
Total supply last week	1,949 million

Yields Currently Available on North Carolina Issues (%)

	Aaa	Aa	A
10-year	4.10	4.20	4.35
20-year	4.75	4.90	5.05

RECENT BOND SALES IN NORTH CAROLINA

Issuer	Date of Sale	Purpose	Amount	No. of Bidders	Years Average Life	First, Second and Last Bids	Winning Manager	Moody's Rating	NCMC Rating
City of Lexington	9-14-1971	Sanitary Sewer	$ 150,000	3	9.00	4.9044, 4.9892, 5.20	Wachovia	A	83
County of Henderson	9-21-1971	Various	4,475,000	4	14.35	5.6776, 5.8027, 6.0784	Dominick Chemical	Baa	79
County of Durham	9-28-1971	Various	10,675,000	8	14.87	4.8197, 4.8266, 4.9167	Bank	Aa	91

VISIBLE BOND ISSUES, OCTOBER AND NOVEMBER 1971

County of Mecklenburg	10- 5-1971	School Building	6,000,000	Aa
City of Charlotte	10-19-1971	Civic Center	8,700,000	Aa
County of Guilford	11- 9-1971	Various	10,000,000	Aa

Edwin Gill, Chairman and Director
Harlan E. Boyles, Secretary
Edwin T. Barnes, Deputy Treasurer

1. Weekly Bond Buyer, October 4, 1971.

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